

### REMARKS/ ARGUMENTS

In response to the above-identified Office Action, Applicants have amended their application and respectfully request reconsideration thereof.

#### *Amendment of Specifications*

The Specification has been amended to correspond to the new drawings.

#### *Amendment of Drawings*

New drawings have been submitted responsive to the draftsman's rejections.

#### *Amendment of Claims*

Claims 1 and 14 have been amended to recite the use of a computer processor.

Claim 9 has been amended to correct an improper antecedent.

Claim 22 has been amended to depend on claim 21.

#### ***Response to Claim Rejections - 35 USC § 101***

Claims 1-26 stand rejected under 35 U.S.C. § 101 because the claims are allegedly directed towards subject matter that is not within the technological arts and are therefore non-statutory. Specifically, "independent claims 1 and 14 meet the tests for being useful, tangible and concrete, but have no technology and are therefore not statutory. Claims 13 and 26 contain a nominal recitation of alternative technologies, but do not disclose any manipulation by the technology or dependence on the technology."

Applicants respectfully submit that claims 1-26, as amended, should not be rejected under 35 U.S.C. § 101 for the reason that claims 1-26 are directed towards a statutory process.

To be statutory a claimed computer-related process must....result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan.

MPEP 2106 IV B 2. (b) citing *Schrader*, 22 F.3d at 296, 30 USPQ2d at 1460.

[a] statutory process is one that requires the measurements of physical objects or activities to be transformed outside of the computer into computer data.

Manipulation of Data Representing Physical Objects or Activities (Pre-Computer Process Activity), MPEP 2106 IV B 2. (b), citing *In re Gelnovatch*, 595 F.2d 32, 41 n.7, 201 USPQ 136, 145 n.7 (CCPA 1979).

Claim 1, as amended, includes the following limitations:

A method of using a computer processor for processing customer interaction records within a customer interaction system....

receiving an interaction record including interaction information describing a customer interaction...

The Office Action, in rejecting claim 1, contends that the subject matter of claim 1 does not have a technology and is therefore non-statutory.

Claim 1 requires receiving an interaction record that includes interaction information that describes a customer interaction. For example, in one embodiment, interaction information may include a response time, wait time, queue time, hold time or talk time (claim 12). Clearly the response time, wait time, queue time, hold time and

talk time are measurements in units of time of various activities and clearly such measurements are transformed outside of the computer into computer data (e.g., interaction information that is received by the computer processor as described in claim 1). Thus, claim 1 may be determined to be a process that is statutory based on the above-described Pre-Computer Process Activity safe harbor (*In re Gelnovatch*). In addition, it may be inferred that a practical application in the technological arts is disclosed in the specification (*Schrader*) because the Office Action has allowed claim 28, which claims substantially the same subject matter as claim 1 and is recited in a means-plus-function format. Consequently, claim 1 should not be rejected for the reason that it does not recite a practical application in the technological arts because claim 1 is a statutory process based on the above-described Pre-Computer Process Activity safe harbor and because it may be inferred from the allowance of claim 28 that a practical application in the technological arts is disclosed in the specification.

In summary, claim 1 is not required to recite a practical application in the technological arts as required to support a rejection of this claim under 35 U.S.C. § 101.

Independent claim 14 includes a limitation corresponding substantially to the above-discussed limitation of claim 1. Accordingly, Applicants request that the above remarks and amendments contained herein also be considered when examining these other independent claims for allowability.

As dependent claims are deemed to include all limitations of claims from which they depend, the rejection of claims 2-13 and 15-26 under 35 U.S.C. 101 is also addressed by the above remarks.

In summary, Applicants believe that all rejections presented in the Office Action have been fully addressed and withdrawn of these rejections is respectfully requested.

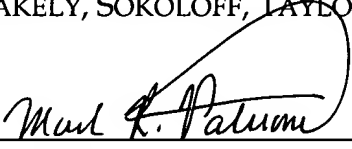
Applicants furthermore believe that all claims are now in a condition for allowance, which is earnestly solicited.

If there are any additional charges, please charge Deposit Account No. 02-2666.  
If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Mark Vatuone at (408) 947-8200.

Respectfully submitted,

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Dated: 2/20, 2004

  
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